

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

IN THE MATTER OF:

KIEU T. TRINH
Debtor

CASE NUMBER: 14-32920
CHAPTER 13

AMENDED TRUSTEE'S OBJECTION TO CONFIRMATION OF PLAN

COMES NOW, the Trustee, Debra L. Miller, and files her Objection to Confirmation of the Plan filed on January 7, 2015 and for cause states as follows:

1. Trustee objects to confirmation pursuant to 11 U.S.C. § 1325(a) as the Debtor has failed to make the required plan payments and is currently \$612.00 delinquent with the next payment due of \$354.00 on March 19, 2015.
2. Trustee objects to confirmation pursuant to 11 U.S.C. §1325(a)(1) as Debtor has failed to comply with 11 U.S.C. §521 as the Debtor has failed to list all of her creditors. Debtor testified at the 341 Meeting of Creditors that she had personally guaranteed business debts, including building leases that were not disclosed. Trustee objects as the Debtor has failed to amend the Schedules to properly add these additional creditors.
3. Trustee objects to confirmation pursuant to 11 U.S.C. §1308 and §1325(a)(9) as the Debtor has not filed her 2011-2013 tax returns.
4. Trustee objects to the following Plan language:
 - a. Debtor's Plan vests property in the Debtor at confirmation. Property is to remain vested in the estate until discharge or dismissal.

- b. Trustee objects to confirmation pursuant to 11 U.S.C. § 1325(a)(1) as the Debtor's Plan provides to pay a specific Trustee percentage contrary to 28 U.S.C. § 586(e). During the life of the plan, the fee may increase or decrease pursuant to 28 U.S.C. § 586(e) and the arbitrary setting of that fee is contrary to statute.
 - c. The Plan proposes to pay the general unsecured creditors "0 cents on the dollar." This does not satisfy the disposable income or best interests tests, and it does not meet the applicable commitment period.
- 5. Trustee objects to confirmation under 11 U.S.C. §1325(a)(6) as the Plan is underfunded as the Plan does not fund the priority Court Claim 2 filed by the Indiana Department of Revenue.
- 6. Trustee objects to confirmation as the disposable income test has not been met under 11 U.S.C. §1325(b)(2) or (3) as:
 - a. Debtor's Plan does not provide for the turnover of her tax refunds for the life of the plan and has failed to prorate any refund on Schedule I.
 - b. Debtor has failed to provide the Trustee with monthly operating reports from December 2014 through present as required by § 704(a)(8) and made applicable through § 1304(c), as the Debtor is self-employed with employees.
 - c. Debtor has yet to provide information regarding her non-filing spouse's income. Trustee is unable to determine the Debtor's median status without this information.
- 7. Trustee objects to confirmation as the Debtor fails to meet the best interests of creditors test under 11 U.S.C. §1325(a)(4) as:

- a. Debtor had a date of filing bank balance of \$7070.68, with no proposed minimum distribution to unsecured creditors. Debtor has additionally failed to provide a date of filing statement from her second 5/3 bank account.
 - b. An additional distribution of 89% of the 2014 tax refunds is required.
8. Trustee objects to confirmation under 11 U.S.C. §1325(a)(6) as the Debtor seeks to pay her mortgage on her residence direct. Debtor has been unable to pay her HOA dues, upon information and belief, as far back as 2010, and has not demonstrated she is current on her mortgage with no proof of claim filed. In this bankruptcy, this property should be paid through the Trustee conduit to ensure it is timely paid and that the Debtor devotes all of her disposable income to the plan.

WHEREFORE, the Trustee objects to confirmation of the proposed Plan for failure to meet the requirements of 11 U.S.C. §1325(a) and (b).

Dated: February 26, 2015

Respectfully Submitted,

/s/ Debra L. Miller, Trustee
Debra L. Miller, Chapter 13 Trustee
P.O. Box 11550
South Bend, IN 46634
(574) 251-1493

CERTIFICATE OF SERVICE

I hereby certify that a copy of this objection was served as follows on February 26, 2015

By U.S. Mail postage prepaid:

Debtor(s): Kieu T. Trinh, 52045 Plantation Drive, Granger, IN 46530

By electronic mail via CM/ECF:

Debtors' Attorney: David Hoa Khoa Nguyen

U.S. Trustee at ustregion10.so.efc@usdoj.gov

/s/ Debra L. Miller